



BY 5/9 (MONDAY), if possible

State of Wisconsin  
2005 - 2006 LEGISLATURE

D-NOTE

LRB-1179/P2 1

DAK:kjf:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

REGENERATE

1 AN ACT *to repeal* 51.13 (1) (f), 51.13 (2) and 51.13 (4) (g) 1.; *to renumber and*  
2 *amend* 51.13 (7) (b) and 51.61 (6); *to consolidate, renumber and amend*  
3 51.13 (3) (a) and (c); *to amend* 51.13 (1) (title), 51.13 (1) (a), 51.13 (1) (b), 51.13  
4 (1) (c) 3., 51.13 (1) (d), 51.13 (1) (e), 51.13 (3) (b), 51.13 (4) (a) (intro.), 51.13 (4)  
5 (c), 51.13 (4) (d), 51.13 (4) (g) (intro.), 51.13 (4) (h) (intro.), 51.13 (6) (a), 51.13  
6 (6) (c), 51.13 (7) (title), 51.13 (7) (a), 51.13 (7) (c), 51.14 (title), 51.14 (1), 51.14  
7 (3) (a), 51.14 (3) (b) 3., 51.14 (3) (f), 51.14 (3) (g), 51.14 (3) (h) (intro.), 51.14 (3)  
8 (h) 1., 51.14 (3) (j), 51.14 (4) (a), 51.14 (4) (g) (intro.), 51.22 (2), 51.30 (5) (b) 1.,  
9 51.30 (5) (b) 2., 51.35 (3) (a), 51.35 (3) (b), 51.35 (3) (g), 51.35 (4) (d), 51.45 (10)  
10 (am), 51.45 (11) (a) and 51.47 (1); and *to create* 51.01 (13r), 51.13 (7) (b) 3.,  
11 51.135, 51.14 (1m), 51.61 (6) (a) and 51.61 (6) (b) of the statutes; **relating to:**  
12 informed consent for minors for inpatient and outpatient treatment for mental

1 illness and developmental disability, informed consent for the administration  
2 to minors of psychotropic medication, and access to records.

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***Analysis by the Legislative Reference Bureau***

Currently, the mental health laws distinguish between minors under 14 years of age and minors 14 years of age or older with regard to giving informed consent for outpatient treatment for mental illness or developmental disability; voluntary admission to and discharge from an inpatient facility for treatment and rehabilitation of mental illness or developmental disability; reexamination under, or modification or cancellation of, an involuntary commitment order for treatment for mental illness or developmental disability; transfer from a juvenile secured correctional facility to an inpatient facility for treatment for mental illness or developmental disability; access and consent to the release of court records and treatment records; and informed consent for medication and treatment.

***Execution of an application for inpatient treatment for mental illness and developmental disability***

Currently, a minor 14 years of age or older may, together with his or her parent with legal custody or guardian, execute an application for inpatient treatment in a publicly funded treatment facility. For minors under 14 years of age, the parent or guardian may execute the application. The refusal of a minor 14 years of age or older to execute an application is reviewable by the court assigned to exercise jurisdiction under the Children's Code (juvenile court). If a minor wishes to be admitted to a publicly funded inpatient facility and his or her parent or guardian refuses to execute an application or is unable to be found, the minor may petition juvenile court for approval of the admission. A minor 14 years of age or older may apply and be admitted to an inpatient treatment facility for diagnosis and evaluation for dental, medical, or psychiatric services for a period not to exceed 12 days; for a minor under 14 years of age, the application must be executed by the minor's parent or guardian. If a minor attains 14 years of age while admitted to an inpatient treatment facility, the facility director must request the minor and his or her parent or guardian to execute an application for admission if the minor is in need of further inpatient care; if the application is not executed by the minor's 14th birthday, he or she must be discharged unless, under certain time limits, a statement is filed for emergency detention or a petition is filed for emergency commitment, involuntary commitment, or protective placement.

This bill continues to permit a minor aged 14 years or older, together with his or her parent or guardian, to execute an application for admission to an inpatient facility. However, if the minor refuses to execute the application, the parent or guardian may do so on the minor's behalf. An inpatient admission made despite refusal by the minor must be reviewed by juvenile court, and the minor is entitled to receive, among other things, an independent evaluation and assistance from the state protection and advocacy agency. For short-term admissions, the bill requires that the application for a minor 14 years of age or older be executed by the minor and

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and such an admission  
is reviewable by juvenile court

his or her parent or guardian, except that the parent or guardian may execute the application if the minor refuses. For a minor who attains age 14 while admitted to an inpatient treatment facility and who refuses to execute an application for admission, the bill permits the minor's parent or guardian to execute the application on the minor's behalf.

***Admissions for privately funded inpatient treatment for mental illness and developmental disability***

Under current law, a minor may be admitted to a private inpatient treatment facility without complying with certain of the requirements that apply to admissions to publicly funded treatment facilities.

This bill eliminates the distinctions in requirements between admissions for minors to publicly funded and privately funded inpatient treatment facilities for mental illness and developmental disability, except that publicly funded admissions continue to be through county departments of community ~~program~~ <sup>programs</sup> or developmental disabilities services or through the Department of Health and Family Services (DHFS).

***Discharge upon request***

Under current law, a minor 14 years of age or older who is voluntarily admitted to an inpatient facility for treatment for mental illness or developmental disability or any minor whose parent or guardian refuses to execute an admission application or cannot be found or for whom there is no parent with legal custody who has petitioned successfully for admission may request that he or she be discharged from the facility and, subject to certain exceptions, must be discharged within 48 hours after submission of the request. A minor under 14 years of age, however, may be discharged on his or her request only if his or her parent or guardian also requests discharge or after a hearing before the juvenile court to determine the continued appropriateness of the admission.

This bill eliminates the right of a minor aged 14 years or older to be discharged from inpatient treatment for mental illness or developmental disability within 48 hours after solely requesting the discharge, except for a minor whose parent or guardian refused to consent to admission or was unable to be found or for whom there is no parent with legal custody and who was admitted to an inpatient facility after a hearing. Under the bill, a minor 14 years of age or older may request discharge together with a parent or guardian. If a minor 14 years of age or older wishes to be discharged and the parent or guardian refuses to request discharge and if the director of the treatment facility avers in writing that the minor is in need of psychiatric services or services for developmental disability, that the facility's therapy or treatment is appropriate to the minor's needs, and that inpatient care in the treatment facility is the least restrictive therapy or treatment consistent with the minor's needs, the minor may not be discharged. A minor who wishes to be discharged but whose parent or guardian refuses may request a hearing before juvenile court.

***Transfer for treatment and returns from treatment***

Under current law, a minor aged 14 years or older who is in need of services for developmental disability or psychiatric services and the minor's parent or guardian

if no hearing concerning the admission has  
been held <sup>within</sup> the immediately preceding  
120 days

must consent for transfer of the minor from a secured juvenile facility to an inpatient treatment facility. Only the minor need consent if the minor has successfully petitioned for admission and has a parent or guardian who refuses to consent or cannot be found or has no parent with legal custody. The minor and his or her guardian have the same rights as are accorded for other admissions to inpatient treatment facilities. DHFS must file a petition for review of the transfer with the juvenile court. If the court is unable to determine that the consent was voluntary on the part of the minor, the court may order additional information or a hearing. If a notation of the minor's unwillingness appears on the face of the petition, or if a hearing has been requested by the minor or the minor's counsel, guardian ad litem, parent, or guardian, the court must hold a hearing to review the transfer. The parent or guardian of a minor under 14 years of age who is transferred to a treatment facility to receive services for developmental disability or psychiatric services may request transfer back to the secured correctional facility, secured child caring institution, or secured group home for the minor. For a minor 14 years of age or older, however, the minor may request return and be returned within 48 hours after submission of the request unless a statement is filed for emergency detention or a petition is filed for emergency commitment, involuntary commitment, or protective placement.

This bill continues to permit a minor aged 14 years or older, and the minor's parent or guardian, to consent for transfer of the minor from a secured juvenile facility to an inpatient treatment facility. However, if the minor refuses to consent, the parent or guardian may do so on the minor's behalf. A juvenile court must review a transfer made under the consent of the minor's parent or guardian despite the minor's refusal, and the minor is granted the rights to an independent evaluation and to assistance from the state protection and advocacy agency as under other discharges from an inpatient treatment facility. The bill eliminates the right of a minor 14 years of age or older to request return to a secured juvenile facility from an inpatient treatment facility and to be returned within 48 hours. Instead, the bill requires that the minor and his or her parent or guardian request the return and provides that the return be made within 48 hours unless a statement is filed for emergency detention or a petition is filed for emergency commitment, involuntary commitment, or protective placement.

### ***Consent for outpatient treatment for mental illness***

Currently, a minor aged 14 years or older may, together with his or her parent or guardian, consent to outpatient treatment for mental illness. For minors under 14 years of age, the parent or guardian may consent. Either a minor 14 years of age or older or his or her parent or guardian may petition the mental health review officer in the county in which the parent or guardian has residence for a review of a refusal of either the minor or the parent or guardian to provide the consent. In addition, review by juvenile court may be made directly or the juvenile court may review a decision by the mental health review officer.

This bill continues to permit a minor aged 14 years or older, together with his or her parent or guardian, to consent to outpatient treatment. However, if the minor refuses to execute the application, the parent or guardian may do so on the minor's behalf. A petition for review by the mental health officer must be filed by or on behalf

parent  
or

INSERT  
ANAL 2

of a minor whose parent or guardian has provided consent to outpatient treatment for the minor, despite the minor's refusal, and the minor has a right to review by juvenile court.

ADMINISTRATION OF PSYCHOTROPIC MEDICATION TO THE MINOR DESPITE HIS OR HER REFUSAL IS REVIEWABLE BY JUVENILE COURT

***Psychotropic medication as treatment for mental illness***

This bill requires a parent or guardian of a minor under 14 years of age to provide written, informed consent for the administration of psychotropic medication, as defined in the bill, to the minor as inpatient or outpatient treatment. For a minor 14 years of age or older, the minor and his or her parent or guardian must consent for the administration of psychotropic medication as inpatient or outpatient treatment, but if the minor refuses to consent, the parent or guardian may consent on the minor's behalf. A minor whose parent or guardian refuses to consent or cannot be found or who has no parent with legal custody may petition the juvenile court for approval of the administration of the psychotropic medication.

INSERT ANAL 4

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 SECTION 1. 51.01 (13r) of the statutes is created to read:

2 51.01 (13r) "Psychotropic medication" has the meaning given in s. 50.035 (5)

3 (a) 2.

4 SECTION 2. 51.13 (1) (title) of the statutes is amended to read:

5 51.13 (1) (title) ~~ADMISSION THROUGH BOARD OR DEPARTMENT~~

6 SECTION 3. 51.13 (1) (a) of the statutes is amended to read:

7 51.13 (1) (a) Except as provided in par. (c) and ~~s. 51.45 (2m)~~, the application for

8 voluntary admission of a minor who is 14 years of age or older to an approved

9 inpatient treatment facility for the primary purpose of treatment for alcoholism or

10 drug abuse and the application for voluntary admission of a minor who is under 14

11 years of age to an approved inpatient treatment facility for the primary purpose of

12 treatment for mental illness, developmental disability, alcoholism, or drug abuse

13 shall be executed by a parent who has legal custody of the minor or the minor's

SS.

and  
51.47

1 guardian. Any statement or conduct by a minor who is the subject of an application  
2 for ~~voluntary~~ admission under this paragraph indicating that the minor does not  
3 agree to admission to the facility shall be noted on the face of the application and  
4 shall be noted in the petition required by sub. (4).

5 **SECTION 4.** 51.13 (1) (b) of the statutes is amended to read:

6 51.13 (1) (b) The application for ~~voluntary~~ admission of a minor who is 14 years  
7 of age or older to an approved inpatient treatment facility for the primary purpose  
8 of treatment for mental illness or developmental disability shall be executed by the  
9 minor and a parent who has legal custody of the minor or the minor's guardian,  
10 except as provided in par. (c) 1., except that, if the minor refuses to execute the  
11 application, a parent who has legal custody of the minor or the minor's guardian may  
12 execute the application on the minor's behalf.

13 **SECTION 5.** 51.13 (1) (c) 3. of the statutes is amended to read:

14 51.13 (1) (c) 3. The court may, at the minor's request, temporarily approve the  
15 admission under subd. 1. or 2. pending hearing on the petition. If a hearing is held  
16 under subd. 1. or 2., no review or hearing under sub. (4) is required.

17 **SECTION 6.** 51.13 (1) (d) of the statutes is amended to read:

18 51.13 (1) (d) A minor against whom a petition or statement has been filed under  
19 s. 51.15, 51.20, or 51.45 (12) or (13) may be admitted under this section. The court  
20 may permit the minor to become a ~~voluntary~~ patient under this section upon  
21 approval by the court of an application executed under par. (a), (b), or (c). The court  
22 shall then dismiss the proceedings under s. 51.15, 51.20, or 51.45 (12) or (13). If a  
23 hearing is held under this subsection, no hearing under sub. (4) is required.

24 **SECTION 7.** 51.13 (1) (e) of the statutes is amended to read:

1           51.13 (1) (e) A minor may be admitted immediately upon the approval of the  
2       application executed under par. (a) or (b) by the treatment director of the facility or  
3       his or her designee or, in the case of a center for the developmentally disabled, the  
4       director of the center or his or her designee, and, if the county department is to be  
5       responsible for the cost of the minor's therapy and treatment, the director of the  
6       appropriate county department under s. 51.42 or 51.437 ~~if the county department is~~  
7       ~~to be responsible for the cost of the minor's therapy and treatment.~~ Admission under  
8       par. (c) or (d) shall also be approved, within 14 days of the minor's admission, by the  
9       treatment director of the facility or his or her designee, or in the case of a center for  
10      the developmentally disabled, the director of the center or his or her designee and,  
11      if the county department is to be responsible for the cost of the minor's therapy and  
12      treatment, the director of the appropriate county department under s. 51.42 or  
13      51.437.

14           ~~(em)~~ Approval under par. (e) shall be based upon an informed professional  
15      opinion that the minor is in need of psychiatric services or services for developmental  
16      disability, alcoholism, or drug abuse, that the treatment facility offers inpatient  
17      therapy or treatment that is appropriate for the minor's needs, and that inpatient  
18      care in the facility is the least restrictive therapy or treatment consistent with the  
19      minor's needs. In the case of a minor who is being admitted for the primary purpose  
20      of treatment for alcoholism or drug abuse, approval shall also be based on the results  
21      of an alcohol or other drug abuse assessment that conforms to the criteria specified  
22      in s. 938.547 (4).

23           **SECTION 8.** 51.13 (1) (f) of the statutes is repealed.

24           **SECTION 9.** 51.13 (2) of the statutes is repealed.

1           **SECTION 10.** 51.13 (3) (a) and (c) of the statutes are consolidated, renumbered  
2           51.13 (3) (am) and amended to read:

3           51.13 (3) (am) Prior to admission if possible, or as soon thereafter as possible,  
4           the minor who is admitted under sub. (1) (a) or (b) and the minor's parent or guardian  
5           shall be informed by the director of the facility or his or her designee, both orally and  
6           in writing, in easily understandable language, of the review procedure in sub. (4),  
7           including the standards to be applied by the court and the possible dispositions; the  
8           minor's right to an independent evaluation, if ordered by the court; the minor's right  
9           to assistance from the state protection and advocacy agency designated under s.  
10          51.62 (2) (a); the right under sub. (4) (d) to a hearing upon request under sub. (4), and;  
11          the minor's right to appointed counsel as provided in sub. (4) (d) if a hearing is held.  
12          ~~(c) A minor 14 years of age or older who has been admitted to an inpatient facility~~  
13          ~~for the primary purpose of treatment for alcoholism or drug abuse, a minor under 14~~  
14          ~~years of age who has been admitted to an inpatient treatment facility for the primary~~  
15          ~~purpose of treatment for mental illness, developmental disability, alcoholism, or~~  
16          ~~drug abuse, and the minor's parent or guardian shall also be informed by the director~~  
17          ~~or his or her designee, both orally and in writing, in easily understandable language,~~  
18          ~~of; and, for a minor other than a minor specified under par. (b), the right of the minor~~  
19          ~~or parent or guardian to request the minor's discharge as provided in or limited by~~  
20          sub. (7) (b); and of the minor's right to a hearing to determine continued  
21          appropriateness of the admission as provided in sub. (7) (c).

22           **SECTION 11.** 51.13 (3) (b) of the statutes is amended to read:

23           51.13 (3) (b) ~~A minor 14 years of age or older who has been admitted to an~~  
24          ~~inpatient treatment facility for the primary purpose of treatment for mental illness~~  
25          ~~or developmental disability~~ Prior to or at admission, a minor who is voluntarily



1 admitted under sub. (1) (c) 1. or 2., and the minor's parent or guardian, if available,  
2 shall also be informed by the director or his or her designee, both orally and in  
3 writing, in easily understandable language, of the minor's right to request discharge  
4 and to be discharged within 48 hours of the request, as provided under sub. (7) (b),  
5 if no petition or statement is filed for emergency detention, or if no petition is filed  
6 for emergency commitment, involuntary commitment, or protective placement, and  
7 the minor's right to consent to or refuse treatment as provided in s. 51.61 (6).

8 **SECTION 12.** 51.13 (4) (a) (intro.) of the statutes is amended to read:

9 51.13 (4) (a) (intro.) Within 3 days after the admission of a minor under sub.  
10 (1), or within 3 days after an application is executed for admission of the minor,  
11 whichever occurs first, the treatment director of the facility to which the minor is  
12 admitted or, in the case of a center for the developmentally disabled, the director of  
13 the center, shall file a verified petition for review of the admission in the court  
14 assigned to exercise jurisdiction under chs. 48 and 938 in the county in which the  
15 facility is located. A copy of the application for admission and of any relevant  
16 professional evaluations shall be attached to the petition. The petition shall contain  
17 all of the following:

18 **SECTION 13.** 51.13 (4) (c) of the statutes is amended to read:

19 51.13 (4) (c) A copy of the petition shall be provided by the petitioner to the  
20 minor and, if available, his or her parents or guardian within 5 days after admission.

21 **SECTION 14.** 51.13 (4) (d) of the statutes is amended to read:

22 51.13 (4) (d) Within 5 days after the filing of the petition, the court assigned  
23 to exercise jurisdiction under chs. 48 and 938 shall determine, based on the  
24 allegations of the petition and accompanying documents, whether there is a prima  
25 facie showing that the minor is in need of psychiatric services, or services for

developmental disability, alcoholism, or drug abuse, that whether the treatment facility offers inpatient therapy or treatment that is appropriate to the minor's needs; ~~and that whether~~ inpatient care in the treatment facility is the least restrictive therapy or treatment consistent with the needs of the minor; and, if the minor is 14 years of age or older and has been admitted to the treatment facility for the primary purpose of treatment for mental illness or developmental disability, whether the admission is ~~voluntary on the part of the minor~~ was made under an application executed by the minor and the minor's parent or guardian. If such a showing is made, the court shall permit ~~voluntary~~ admission. If the court is unable to make those determinations based on the petition and accompanying documents, the court may dismiss the petition as provided in par. (h); order additional information, including an independent evaluation, to be produced as necessary for the court to make those determinations within 14 days after admission or application for admission, whichever is sooner; or hold a hearing within 14 days after admission or application for admission, whichever is sooner. If a notation of the minor's unwillingness appears on the face of the petition, if the admission was made under an application executed by the minor's parent or guardian despite the minor's refusal, or if a hearing has been requested by the minor or by the minor's counsel, parent, or guardian, the court shall order an independent evaluation of the minor and hold a hearing to review the admission <sup>2</sup> within 14 days after admission or application for admission, whichever is sooner, <sup>2</sup> and shall appoint counsel to represent the minor if the minor is unrepresented. If the court considers it necessary, the court shall also appoint a guardian ad litem to represent the minor. The minor may receive assistance from the state protection and advocacy agency designated under s. 51.62 (2) (a).

if the minor's parent or guardian has consented to the administration of psychotropic medication to the minor despite the minor's refusal,

or to review the administration of psychotropic medication,

1           **SECTION 15.** 51.13 (4) (g) (intro.) of the statutes is amended to read:

2           51.13 (4) (g) (intro.) If the court finds, under a hearing under par. (d), that the  
3       minor is in need of psychiatric services or services for developmental disability,  
4       alcoholism, or drug abuse in an inpatient facility, that the inpatient facility to which  
5       the minor is admitted offers therapy or treatment that is appropriate for the minor's  
6       needs and that is the least restrictive therapy or treatment consistent with the  
7       minor's needs, and, ~~in the case of a minor 14 years of age or older who is being~~  
8       ~~admitted for the primary purpose of treatment for mental illness or developmental~~  
9       ~~disability, that the application is voluntary on the part of the minor,~~ the court shall  
10      permit voluntary admission. If the court finds that the therapy or treatment in the  
11      inpatient facility to which the minor is admitted is not appropriate or is not the least  
12      restrictive therapy or treatment consistent with the minor's needs, the court may  
13      order placement in or transfer to another more appropriate or less restrictive  
14      inpatient facility, except that the ~~court may not permit or order~~ placement in or  
15      transfer to the northern or southern centers for the developmentally disabled of a  
16      minor ~~unless the department gives approval for the placement or transfer, and if~~  
17      ~~unless the order of the court is~~ shall first be approved by all of the following if applicable:

18      ~~**SECTION 16.** 51.13 (4) (g) 1. of the statutes is repealed.~~

19      **SECTION 17.** 51.13 (4) (h) (intro.) of the statutes is amended to read:

20      51.13 (4) (h) (intro.) If the court does not permit voluntary admission under par.  
21      (g), it shall do one of the following: renumbered 51.13 (6) (a) 1. and

22      **SECTION 18.** 51.13 (6) (a) of the statutes is amended to read:

23      51.13 (6) (a) <sup>(1.)</sup> ~~A~~ minor may be admitted to an inpatient treatment facility  
24      without review of the application ~~under sub. (4)~~ <sup>(2.)</sup> for diagnosis and evaluation or for  
25      dental, medical, or psychiatric services <sup>(2.)</sup> for a period not to exceed 12 days. The

under sub. (4)

Subject to subd. 2. or 3., as applicable, a

INSERT  
11-18

change  
competency

unless sub. (1)(c)  
applies.

1 application for short-term admission of a minor shall be executed by the minor's  
2 parent with legal custody of the minor or the minor's guardian, and, However, if the  
3 minor is 14 years of age or older and is being admitted for the primary purpose of  
4 diagnosis, evaluation, or services for mental illness or developmental disability, the  
5 application shall be executed by the minor's parent or guardian and the minor, except  
6 that, if the minor refuses to execute the application, the parent or the guardian may  
7 execute the application. A minor may not be readmitted to an inpatient treatment  
8 facility for psychiatric services under this paragraph within 120 days of a previous  
9 admission under this paragraph.

RESTORE TO PLAIN TEXT

#2. If

#3.

• Admission under this subdivision of a minor who refuses to execute the application is reviewable under

Sub. (4)(d).

SECTION 19. 51.13 (6) (c) of the statutes is amended to read:

11 51.13 (6) (c) At the end of the 12-day period, the minor shall be released unless  
12 an application has been filed for voluntary admission under sub. (1) ~~or a petition or;~~  
13 a statement has been filed for emergency detention; or a petition has been filed for  
14 emergency commitment, involuntary commitment, or protective placement.

SECTION 20. 51.13 (7) (title) of the statutes is amended to read:

51.13 (7) (title) DISCHARGE OR CONTINUED APPROPRIATENESS OF ADMISSION.

SECTION 21. 51.13 (7) (a) of the statutes is amended to read:

18 51.13 (7) (a) If a minor is admitted to an inpatient treatment facility while  
19 under 14 years of age, and if upon reaching age 14 is in need of further inpatient care  
20 and treatment primarily for mental illness or developmental disability, the director  
21 of the facility shall request the minor and the minor's parent or guardian to execute  
22 an application for voluntary admission. If the minor refuses, the minor's parent or  
23 guardian may execute the application on the minor's behalf. Such an application  
24 may be executed within 30 days prior to a minor's 14th birthday. If the application  
25 is executed, a petition for review shall be filed in the manner prescribed in sub. (4),

1 unless such a review has been held within the last 120 days. If the application is not  
2 executed by the time of the minor's 14th birthday, the minor shall be discharged  
3 unless a petition or statement is filed for emergency detention, emergency  
4 commitment, involuntary commitment, or protective placement by the end of the  
5 next day in which the court transacts business.

6 **SECTION 22.** 51.13 (7) (b) of the statutes is renumbered 51.13 (7) (b) 1. and  
7 amended to read:

8 51.13 (7) (b) 1. Any minor 14 years of age or older who is voluntarily admitted  
9 ~~under this section for the primary purpose of treatment for mental illness or~~  
10 ~~developmental disability, and any minor who is voluntarily admitted under sub. (1)~~  
11 ~~(c) 1. or 2., may request discharge in writing. In the case of~~

12 2. For a minor 14 years of age or older who is voluntarily admitted under this  
13 section sub. (1) (a) or (b) for the primary purpose of treatment for alcoholism or drug  
14 abuse or a minor under 14 years of age who is voluntarily admitted under this section  
15 sub. (1) (a) or (b) for the primary purpose of treatment for mental illness,  
16 developmental disability, alcoholism, or drug abuse, the parent or guardian of the  
17 minor may make the request ~~discharge in writing.~~ *← strike period*

18 4. Upon receipt of any form of written request for discharge from a minor  
19 specified under subd. 1. or 3., the director of the facility in which the minor is  
20 admitted shall immediately notify the minor's parent or guardian, if available. The

21 5. A minor specified in subd. 1., a minor specified in subd. 2. whose parent or  
22 guardian requests discharge in writing, and a minor specified in subd. 3. who  
23 requests and whose parent or guardian requests discharge in writing shall be  
24 discharged within 48 hours after submission of the request, exclusive of Saturdays,  
25 Sundays, and legal holidays, unless a petition or statement is filed for emergency

1 detention, emergency commitment, involuntary commitment, or protective  
2 placement.

3 **SECTION 23.** 51.13 (7) (b) 3. of the statutes is created to read:

4 51.13 (7) (b) 3. For a minor 14 years of age or older who is admitted under sub.  
5 (1) (a) or (b) for the primary purpose of treatment for mental illness or developmental  
6 disability, the minor and the minor's parent or guardian may request discharge in  
7 writing. If the parent or guardian of the minor refuses to request discharge and if  
8 the director of the facility to which the minor is admitted or his or her designee avers,  
9 in writing, that the minor is in need of psychiatric services or services for  
10 developmental disability, that the facility's therapy or treatment is appropriate to  
11 the minor's needs, and that inpatient care in the treatment facility is the least  
12 restrictive therapy or treatment consistent with the needs of the minor, the minor  
13 may not be discharged under this paragraph.

14 **SECTION 24.** 51.13 (7) (c) of the statutes is amended to read:

15 51.13 (7) (c) Any minor ~~14 years of age or older~~ who is voluntarily admitted  
16 under this section ~~for the primary purpose of treatment for alcoholism or drug abuse,~~  
17 ~~and who is not discharged under par. (b), and any minor under 14 years of age who~~  
18 ~~is voluntarily admitted under this section for the primary purpose of treatment for~~  
19 ~~mental illness, developmental disability, alcoholism, or drug abuse, and, other than~~  
20 a minor to which par. (b) 1. applies, who is not discharged under par. (b), may submit  
21 a written request to the court for a hearing to determine the continued  
22 appropriateness of the admission. If the director or staff of the inpatient treatment  
23 facility to which a minor described in this paragraph is admitted observes conduct  
24 by the minor that demonstrates an unwillingness to remain at the facility, including  
25 ~~but not limited to~~ a written expression of opinion or unauthorized absence, the

as provided in  
sub. (4)(d)

1 director shall file a written request with the court to determine the continued  
2 appropriateness of the admission. A request that is made personally by a minor  
3 under this paragraph shall be signed by the minor but need not be written or  
4 composed by the minor. A request for a hearing under this paragraph that is received  
5 by staff or the director of the facility in which the ~~child~~ minor is admitted shall be filed  
6 with the court by the director. The court shall order a hearing upon request if no  
7 hearing concerning the minor's admission has been held within 120 days after before  
8 court receipt of the request. RESTORE TO PLAIN TEXT ~~The court shall appoint counsel and, if the court considers it~~  
9 ~~necessary, a guardian ad litem to represent the minor and if~~ and shall hold a hearing  
10 as provided in § 51.14 (4)(d) if the minor requests discharge and the minor's parent  
11 or guardian refuses. If a hearing is held, the court shall hold the hearing within 14  
12 days after receipt of the request, unless the parties agree to a longer period. After  
13 the hearing, the court shall ~~make disposition~~ dispose of the matter in the manner  
14 provided in sub. (4) (h).

15 SECTION 25. 51.135 of the statutes is created to read:

16 **51.135 Administration of psychotropic medication to minors.** (1) (a) A  
17 parent with legal custody or the guardian of a minor under 14 years of age shall  
18 provide written, informed consent for the administration of psychotropic medication  
19 to the minor as inpatient or outpatient treatment for mental illness.

20 (b) A parent with legal custody or the guardian of a minor 14 years of age or  
21 older and the minor shall provide written, informed consent for the administration  
22 of psychotropic medication to the minor as inpatient or outpatient treatment for  
23 mental illness, except that, if the minor refuses to consent to administration of the  
24 psychotropic medication, the parent or guardian may provide consent on the minor's  
25 behalf. INSERT 15-25

(2) If a minor wishes to provide written, informed consent for the administration of psychotropic medication as inpatient or outpatient treatment of the minor for mental illness, but the minor's parent with legal custody or guardian refuses to consent to administration of the psychotropic medication or cannot be found, or if there is no parent with legal custody, the minor or a person acting on the minor's behalf may petition the court assigned to exercise jurisdiction under chs. 48 and 938 in the county of residence of the parent or guardian for approval of the administration. A copy of the petition and a notice of hearing shall be served upon the parent or guardian at his or her last-known address. If, after a hearing, the court determines that the consent of the parent or guardian is being unreasonably withheld, that the parent or guardian cannot be found, or that there is no parent with legal custody, and that the administration is appropriate to the minor's needs, the court shall approve the administration of the psychotropic medication without the consent of the parent or guardian.

SECTION 26. 51.14 (title) of the statutes is amended to read:

51.14 (title) **Outpatient mental health treatment of minors.**

SECTION 27. 51.14 (1) of the statutes is amended to read:

51.14 (1) DEFINITIONS. In this section, "outpatient mental health treatment" means treatment and social services for mental illness, ~~except~~ psychotropic medications and 24-hour care and custody provided by a treatment facility ~~that is~~ not inpatient treatment.

SECTION 28. 51.14 (1m) of the statutes is created to read:

51.14 (1m) CONSENT TO TREATMENT. A parent who has legal custody of a minor under 14 years of age or the minor's guardian may provide informed consent to outpatient treatment for mental illness for the minor. A minor 14 years of age or



1 older and a parent who has legal custody of the minor or the minor's guardian may  
2 provide informed consent to outpatient treatment for mental illness for the minor,  
3 except that, if the minor refuses to consent, the parent or guardian may provide  
4 informed consent to the outpatient treatment on the minor's behalf.

5 **SECTION 29.** 51.14 (3) (a) of the statutes is amended to read:

6 51.14 (3) (a) ~~Either a~~ A minor 14 years of age or older ~~or his or her parent or~~  
7 ~~guardian~~ may petition the mental health review officer in the county in which the  
8 minor's parent or guardian has residence for a review of a refusal or inability of ~~either~~  
9 ~~the minor or his or her~~ the minor's parent or guardian to provide the informed  
10 consent for outpatient mental health treatment required under s. ~~51.61 (6) sub. (1m).~~  
11 A petition for review by the mental health officer shall be filed by or on behalf of a  
12 minor on whose behalf consent was provided under sub. (1m) by the minor's parent  
13 or guardian despite the minor's refusal.

14 **SECTION 30.** 51.14 (3) (b) 3. of the statutes is amended to read:

15 51.14 (3) (b) 3. The facts substantiating the petitioner's belief that the minor  
16 needs, or does not need, outpatient mental health treatment.

17 **SECTION 31.** 51.14 (3) (f) of the statutes is amended to read:

18 51.14 (3) (f) If prior to a hearing under par. (g) ~~either the minor or his or her~~  
19 ~~parent or guardian~~ requests and the mental health review officer determines that  
20 the best interests of the minor would be served, a petition may be filed for court  
21 review under sub. (4) without further review under this subsection.

22 **SECTION 32.** 51.14 (3) (g) of the statutes is amended to read:

23 51.14 (3) (g) Within 21 days after the filing of a petition under this subsection,  
24 the mental health review officer shall hold a hearing on the refusal or inability of the  
25 ~~minor or the minor's parent or guardian~~ to provide informed consent for outpatient

1     treatment or on the provision of informed consent by the parent or guardian despite  
2     the minor's refusal. The mental health review officer shall provide notice of the date,  
3     time and place of the hearing to the minor and, if available, the minor's parent or  
4     guardian at least 96 hours prior to the hearing.

5             **SECTION 33.** 51.14 (3) (h) (intro.) of the statutes is amended to read:

6             51.14 (3) (h) (intro.) If following the hearing under par. (g) and after taking into  
7     consideration the recommendations, if any, of the county department under s. 51.42  
8     or 51.437 made under par. (e), the mental health review officer finds all of the  
9     following, he or she shall issue a written order that, notwithstanding the written,  
10    informed consent requirement of ~~s. 51.61 (6)~~ sub. (1m), the written, informed consent  
11    of the minor, ~~if the minor is refusing to provide consent, or the written, informed~~  
12    ~~consent of the minor's parent or guardian, if the parent or guardian is refusing or~~  
13    unable to provide consent, is not required for outpatient mental health treatment for  
14    the minor or, if the parent or guardian provided informed consent despite the minor's  
15    refusal, the outpatient mental health treatment for the minor is appropriate:

16            **SECTION 34.** 51.14 (3) (h) 1. of the statutes is amended to read:

17            51.14 (3) (h) 1. The informed consent of the parent or guardian is unreasonably  
18    withheld or the refusal of the minor to provide informed consent is unreasonable.

19            **SECTION 35.** 51.14 (3) (j) of the statutes is amended to read:

20            51.14 (3) (j) The mental health review officer shall notify the minor and the  
21    minor's parent or guardian, if available, of the right to judicial review under sub. (4).

22            **SECTION 36.** 51.14 (4) (a) of the statutes is amended to read:

23            51.14 (4) (a) Within 21 days after the issuance of the order by the mental health  
24    review officer under sub. (3) or ~~if the requirements of sub. (3) (f) are satisfied~~ applies,  
25    ~~the minor or his or her parent or guardian~~ may petition a court assigned to exercise

1 jurisdiction under chs. 48 and 938 in the county of residence of the minor's parent  
2 or guardian for a review of the refusal of either the minor or his or her or inability  
3 of the minor's parent or guardian to provide the informed consent for outpatient  
4 mental health treatment required under s. ~~51.61 (6)~~ sub. (1m) or for a review of the  
5 provision of informed consent by the parent or guardian despite the minor's refusal.

6 **SECTION 37.** 51.14 (4) (g) (intro.) of the statutes is amended to read:

7 51.14 (4) (g) (intro.) After the hearing under this subsection, the court shall  
8 issue a written order stating that, notwithstanding the written, informed consent  
9 requirement of s. ~~51.61 (6)~~ sub. (1m), the written, informed consent of the ~~minor, if~~  
10 ~~the minor refuses to provide consent, or the written, informed consent of the parent~~  
11 ~~or guardian, if the parent or guardian refuses~~ or is unable to provide consent, is not  
12 required for outpatient mental health treatment for the minor or that, if the parent  
13 or guardian provided informed consent despite the minor's refusal, the outpatient  
14 mental health treatment for the minor is appropriate, if the court finds all of the  
15 following:

16 **SECTION 38.** 51.22 (2) of the statutes is amended to read:

17 51.22 (2) Except as provided in s. ~~51.13 (2)~~, <sup>✓</sup>voluntary for admissions that do  
18 not involve the department or a county department under s. 51.42 or 51.437 or a  
19 contract between a treatment facility and the department or a county department,  
20 admissions under ss. 51.10, 51.13, and 51.45 (10) shall be through the county  
21 department under s. 51.42 or 51.437 serving the person's county of residence, or  
22 through the department if the person to be admitted is a nonresident of this state.  
23 Admissions through a county department under s. 51.42 or 51.437 shall be made in  
24 accordance with s. 51.42 (3) (as) 1. or 51.437 (4rm) (a). Admissions through the  
25 department shall be made in accordance with sub. (3).

1           **SECTION 39.** 51.30 (5) (b) 1. of the statutes is amended to read:

2           51.30 (5) (b) 1. The guardian of an individual who is adjudged incompetent  
3 under ch. 880 shall have access to the individual's court and treatment records at all  
4 times. The parent, guardian, or person in the place of a parent of a ~~developmentally~~  
5 ~~disabled~~ minor shall have access to the minor's court and treatment records at all  
6 times ~~except in the case of a minor aged 14 or older who files a written objection to~~  
7 ~~such~~ the access with the custodian of the records. The parent, guardian, or person  
8 ~~in the place of a parent of other minors shall have the same rights of access as are~~  
9 ~~provided to subject individuals under this section, other than under subd. 2.~~

10          **SECTION 40.** 51.30 (5) (b) 2. of the statutes is amended to read:

11          51.30 (5) (b) 2. A minor ~~upon reaching the age of~~ who is aged 14 or older and  
12 admitted under s. 51.13 (1) (b) or (c) 1. or (7) (a) shall have access to his or her own  
13 court and treatment records, as provided in this section. ~~A minor under the age of~~  
14 14 All other minors shall have access to court records but only in the presence of  
15 parent, guardian, counsel, guardian ad litem, or judge and shall have access to  
16 treatment records as provided in this section but only in the presence of parent,  
17 guardian, counsel, guardian ad litem, or staff member of the treatment facility.

18          **SECTION 41.** 51.35 (3) (a) of the statutes is amended to read:

19          51.35 (3) (a) A licensed psychologist of a secured correctional facility, a secured  
20 child caring institution, or a secured group home, or a licensed physician of the  
21 department of corrections, who has reason to believe that any individual confined in  
22 the secured correctional facility, secured child caring institution, or secured group  
23 home is, in his or her opinion, in need of services for developmental disability,  
24 alcoholism, or drug dependency or in need of psychiatric services, and who has  
25 obtained ~~voluntary~~ consent to make a transfer for treatment, shall make a report,

1 in writing, to the superintendent of the secured correctional facility, secured child  
2 caring institution, or secured group home, stating the nature and basis of the belief  
3 and verifying the consent. In the case of a minor age 14 or older who is in need of  
4 services for developmental disability or who is in need of psychiatric services, the  
5 minor and the minor's parent or guardian shall consent unless the minor is admitted  
6 under s. 51.13 (1) (c) 1. or unless the minor refuses to consent, in which case the  
7 minor's parent or guardian may consent on behalf of the minor. In the case of a minor  
8 age 14 or older who is in need of services for alcoholism or drug dependency or a minor  
9 under the age of 14 who is in need of services for developmental disability, alcoholism,  
10 or drug dependency or in need of psychiatric services, only the minor's parent or  
11 guardian ~~need~~ needs to consent unless the minor is admitted under s. 51.13 (1) (c).  
12 The superintendent shall inform, orally and in writing, the minor and the minor's  
13 parent or guardian, that transfer is being considered and shall inform them of the  
14 basis for the request and their rights as provided in s. 51.13 (3) (am). If the  
15 department of corrections, upon review of a request for transfer, determines that  
16 transfer is appropriate, that department shall immediately notify the department of  
17 health and family services and, if the department of health and family services  
18 consents, the department of corrections may immediately transfer the individual.  
19 The department of health and family services shall file a petition under s. 51.13 (4)  
20 (a) in the court assigned to exercise jurisdiction under chs. 48 and 938 of the county  
21 where the treatment facility is located.

22 **SECTION 42.** 51.35 (3) (b) of the statutes is amended to read:

23 51.35 (3) (b) The court assigned to exercise jurisdiction under chs. 48 and 938  
24 shall determine, based on the allegations of the petition and accompanying  
25 documents, whether the transfer under par. (a) of the minor to an inpatient facility

1 is appropriate and consistent with the needs of the minor and, if the minor is 14 years  
2 of age or older and is being transferred for the purpose of receiving services for  
3 developmental disability or psychiatric services, whether consent for the transfer is  
4 voluntary on the part of the minor was provided by the minor and his or her parent  
5 or guardian or whether the minor was admitted under s. 51.13 (1) (c) 1. If the court  
6 is unable to make those determinations based on the petition and accompanying  
7 documents, the court may order additional information, including an independent  
8 evaluation, to be produced as necessary to make those determinations within 14 days  
9 after admission, or the court may hold a hearing within 14 days after admission. If  
10 a notation of the minor's unwillingness appears on the face of the petition, if the  
11 transfer was made under a consent of the minor's parent or guardian despite the  
12 minor's refusal, or if a hearing has been requested by the minor or by the minor's  
13 counsel, guardian ad litem, parent, or guardian, the court shall order an independent  
14 evaluation of the minor, hold a hearing, and appoint counsel or a guardian ad litem  
15 for the minor as provided in s. 51.13 (4) (d). The minor may receive assistance from  
16 the state protection and advocacy agency designated under s. 51.62 (2) (a). At the  
17 conclusion of the hearing, the court shall approve or disapprove the request for  
18 transfer. If the minor is under the continuing jurisdiction of the court of another  
19 county, the court may order the case transferred together with all appropriate  
20 records to that court.

21 **SECTION 43.** 51.35 (3) (g) of the statutes is amended to read:

22 51.35 (3) (g) A minor 14 years of age or older who is transferred to a treatment  
23 facility under par. (a) for the purpose of receiving services for developmental  
24 disability or psychiatric services and the minor's parent or guardian may request in  
25 writing a return to the secured correctional facility, secured child caring institution,

1 or secured group home, except that, if the minor refuses to make the request, the  
2 parent or guardian may make the request on behalf of the minor. In the case of a  
3 minor 14 years of age or older who is transferred to a treatment facility under par.  
4 (a) for the purpose of receiving services for alcoholism or drug dependency or a minor  
5 under 14 years of age, who is transferred to a treatment facility under par. (a) for the  
6 purpose of receiving services for developmental disability, alcoholism, or drug  
7 dependency, or psychiatric services, the parent or guardian may make the request.  
8 Upon receipt of a request for return from a minor 14 years of age or older, the director  
9 shall immediately notify the minor's parent or guardian. ~~The minor, if available. A~~  
10 minor 14 years of age or older who requests and whose parent or guardian requests  
11 and a minor who was admitted under s. 51.13 (1) (c) who requests discharge in  
12 writing shall be returned to the secured correctional facility, secured child caring  
13 institution, or secured group home within 48 hours after submission of the request  
14 unless a ~~petition or~~ statement is filed for emergency detention, or a petition is filed  
15 for emergency commitment, involuntary commitment, or protective placement.

16 SECTION 44. 51.35 (4) (d) of the statutes is amended to read:

17 51.35 (4) (d) The director of an inpatient facility may, under the requirements  
18 of s. 51.10 (5) (c) or 51.13 (7), grant a discharge or may terminate services to any  
19 patient voluntarily admitted under s. 51.10 or 51.13 when such patient requests a  
20 discharge. ~~Such discharge shall conform to the requirements of s. 51.10 (5) (c) or~~  
21 ~~51.13 (7).~~ Except as provided in s. 51.47, a

22 SECTION 45. 51.45 (10) (am) of the statutes is amended to read:

23 51.45 (10) (am) ~~A~~ minor may apply for voluntary treatment directly to an  
24 approved public treatment facility, but only for those forms of treatment specified in

1 sub. (7) (b) 5. and 7. Section 51.13 ~~shall govern voluntary~~ governs admission of a  
2 minor alcoholic to an inpatient treatment facility.

3 **SECTION 46.** 51.45 (11) (a) of the statutes is amended to read:

4 51.45 (11) (a) An intoxicated person may come voluntarily to an approved  
5 public treatment facility for emergency treatment. Any law enforcement officer, or  
6 designated person upon the request of a law enforcement officer, may assist a person  
7 who appears to be intoxicated in a public place and to be in need of help to his or her  
8 home, an approved treatment facility or other health facility, if such person consents  
9 to the proffered help. Section 51.13 ~~shall govern voluntary~~ governs admission of an  
10 intoxicated minor to an inpatient facility under this paragraph.

11 **SECTION 47.** 51.47 (1) of the statutes is amended to read:

12 51.47 (1) Except as provided in subs. (2) and (3), any physician or health care  
13 facility licensed, approved, or certified by the state for the provision of health services  
14 may render preventive, diagnostic, assessment, evaluation, or treatment services,  
15 on an outpatient basis, for the abuse of alcohol or other drugs to a minor 12 years of  
16 age or over without obtaining the consent of or notifying the minor's parent or  
17 guardian and may render those services to a minor under 12 years of age without  
18 obtaining the consent of or notifying the minor's parent or guardian, but only if a  
19 parent with legal custody or guardian of the minor under 12 years of age cannot be  
20 found or there is no parent with legal custody of the minor under 12 years of age. An  
21 assessment under this subsection shall conform to the criteria specified in s. 938.547  
22 (4). Unless consent of the minor's parent or guardian is required under sub. (2), the  
23 physician or health care facility shall obtain the minor's consent prior to billing a 3rd  
24 party for services under this section. If the minor does not consent, the minor shall



1 be solely responsible for paying for the services, which the department shall bill to  
2 the minor under s. 46.03 (18) (b).

3 SECTION 48. 51.61 (6) of the statutes is renumbered 51.61 (6) (intro.) and  
4 amended to read:

5 51.61 (6) (intro.) Subject to the rights of patients provided under this chapter,  
6 the department, county departments under s. 51.42 or 51.437, and any agency  
7 providing services under an agreement with the department or those county  
8 departments have the right to use customary and usual treatment techniques and  
9 procedures in a reasonable and appropriate manner in the treatment of patients who  
10 are receiving services under the mental health system, for the purpose of  
11 ameliorating the conditions for which the patients were admitted to the system. The  
12 written, informed consent of any patient shall first be obtained, unless the person  
13 has been found not competent to refuse medication and treatment under s. 51.61 (1)  
14 (g) or the person is a minor 14 years of age or older who is receiving services for  
15 alcoholism or drug abuse or a minor under 14 years of age who is receiving services  
16 for mental illness, developmental disability, alcoholism, or drug abuse. In the case  
17 of a minor, the written, informed consent of the parent or guardian is required, except  
18 as provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g). If  
19 the minor is 14 years of age or older and is receiving services for mental illness or  
20 developmental disability, the written, informed consent of the minor and the minor's  
21 parent or guardian is required. A refusal of either a minor 14 years of age or older  
22 or the minor's parent or guardian to provide written, informed consent for admission  
23 to an approved inpatient treatment facility is reviewable under s. 51.13 (1) (c) 1. and  
24 a refusal of either a minor 14 years of age or older or the minor's parent or guardian

1 ~~to provide written, informed consent for outpatient mental health treatment is~~  
2 ~~reviewable under s. 51.14. all of the following apply:~~

3 **SECTION 49.** 51.61 (6) (a) of the statutes is created to read:

4 51.61 (6) (a) If the minor is under 14 years of age, for the receipt of inpatient  
5 treatment or outpatient treatment or services for mental illness, developmental  
6 disability, alcoholism, or drug abuse, including the administration of psychotropic  
7 medication, the written, informed consent of the minor's parent or guardian is  
8 required, except as provided under ss. 51.13 (1) (c) 2., 51.14 (3) (h) and (4), 51.135 (1)  
9 ~~and~~ (2), and 51.47 (1).

10 **SECTION 50.** 51.61 (6) (b) of the statutes is created to read:

11 51.61 (6) (b) If the minor is 14 years of age or older:

12 1. Except as provided in subd. 5., for the receipt of inpatient treatment for  
13 developmental disability or mental illness, the minor and a parent with legal custody  
14 of the minor or the minor's guardian shall execute the application, except for all of  
15 the following:

16 a. A refusal or inability of the minor's parent or guardian to provide written,  
17 informed consent for inpatient treatment for mental illness or developmental  
18 disability is reviewable under s. 51.13 (1) (c) 1.

19 b. If the minor refuses to execute an application for or consent to a transfer for  
20 inpatient treatment for mental illness or developmental disability, the minor's  
21 parent or guardian may execute the application or consent on the minor's behalf.  
22 Refusal by the minor to execute the application or consent is reviewable under ss.  
23 51.13 (3) and (4) and 51.35 (3) (b).

24 2. For the receipt of inpatient treatment for alcoholism or drug abuse, a parent  
25 with legal custody of the minor or the minor's guardian shall execute the application,

1 except as provided in s. 51.47 (2) (b), (c), and (d) and except that a refusal or inability  
2 of the minor's parent or guardian to provide written, informed consent for inpatient  
3 treatment for alcoholism or drug abuse is reviewable under s. 51.13 (1) (c) 1.

4 3. Except as provided in subd. 5., for the receipt of outpatient treatment for  
5 mental illness or developmental disability, the minor and a parent with legal custody  
6 of the minor or the minor's guardian shall provide written, informed consent, except  
7 for all of the following:

8 a. A refusal or inability of the minor's parent or guardian to provide written,  
9 informed consent is reviewable under s. 51.14 (3) and (4).

10 b. If the minor refuses to provide written, informed consent, the minor's parent  
11 or guardian may provide written, informed consent on behalf of the minor. Refusal  
12 by the minor to provide written, informed consent is reviewable under s. 51.14 (3) and  
13 (4).

14 4. For the receipt of outpatient treatment for alcoholism or drug abuse, s. 51.47  
15 applies.

16 5. For the receipt of psychotropic medication as inpatient or outpatient  
17 treatment for mental illness, s. 51.135 applies.

18 **SECTION 51. Initial applicability.**

19 (1) INPATIENT TREATMENT. The treatment of sections 51.13 (1) (title), (a), (b), (c)  
20 3., (d), (e), and (f), (2), (3) (a), (b), and (c), (4) (a) (intro.), (c), (d), (g) (intro.) ~~and 4.~~ (h)  
21 (intro.), (6) (a) and (c) and (7) (a), 51.22 (2) and 51.45 (11) (a) of the statutes, the  
22 renumbering and amendment of section 51.61 (6) of the statutes, and the creation  
23 of section 51.61 (6) (b) (intro.), 1., 2., and 5. of the statutes first apply to inpatient  
24 treatment applied for or received in an approved inpatient treatment facility on the

51.13 (4) (g) 1. a. to c.  
and 4. and

51.13 (4) (g) 1. and (6) (a) and

1 effective date of this subsection, regardless of whether admission to the inpatient  
2 facility occurred or was sought prior to the effective date of this subsection.

3 (2) CONSENT PROVIDED FOR OUTPATIENT TREATMENT. The treatment of sections  
4 51.14 (title), (1), (1m), (3) (a), (b) 3., (f), (g), (h) (intro.) and 1., and (j), and (4) (a) and  
5 (g) (intro.), <sup>and</sup> 51.45 (10) (am) <sup>of the statutes</sup> and ~~51.47 (1)~~, the renumbering and amendment of section  
6 51.61 (6) of the statutes, and the creation of section 51.61 (6) (b) (intro.), 3., 4., and  
7 5. of the statutes first apply to outpatient treatment consented to or received on the  
8 effective date of this subsection, regardless of whether consent for the treatment  
9 occurred or was sought prior to the effective date of this subsection.

10 (3) TRANSFERS OF TREATMENT. The treatment of sections 51.35 (3) (a), (b), and  
11 (g) and (4) (d) of the statutes first applies to transfers of treatment consented to on  
12 the effective date of this subsection, regardless of whether consent for the transfer  
13 was sought prior to the effective date of this subsection.

14 (4) DISCHARGE FROM INPATIENT FACILITIES. The treatment of sections 51.13 (7)  
15 (title) and (c) and 51.35 (4) (d) of the statutes, the renumbering and amendment of  
16 section 51.13 (7) (b) of the statutes, and the creation of section 51.13 (7) (b) 3. of the  
17 statutes first apply to discharges from inpatient facilities made on the effective date  
18 of this subsection, regardless of whether the discharge was sought prior to the  
19 effective date of this subsection.

20 (5) PSYCHOTROPIC MEDICATION. The treatment of sections 51.01 (13r) and 51.135  
21 of the statutes, the renumbering and amendment of section 51.61 (6) of the statutes,  
22 and the creation of section 51.61 (6) (a) and (b) (intro.), 1. (intro.), 3. (intro.), and 5.  
23 of the statutes first apply to the administration of psychotropic medication on the  
24 effective date of this subsection.

25 **SECTION 52. Effective date.**

1           (1) This act takes effect on the first day of the 2nd month beginning after  
2       publication.

**(END)**

D-NOTE

**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1179/lins  
DAK:kjf:jf

**INSERT ANAL 1**

*no #* a minor whose parent or guardian refuses to execute an admission application or cannot be found or for whom there is no parent with legal custody may apply and be admitted.

**INSERT ANAL 2**

*no #* "Outpatient mental health treatment" is defined as treatment and social services for mental illness, except psychotropic medications and 24-hour care and custody provided by a treatment facility.

**INSERT ANAL 3**

*no #* The definition of "outpatient mental health treatment" is changed to eliminate the exclusion for the administration of psychotropic medications.

**INSERT ANAL 4**

***Records***

Currently, the parent, guardian, or person in the place of a parent of a minor with developmental disability has access to the minor's court and treatment records at all times unless the minor, if aged 14 or older, files a written objection with the record custodian. Parents, guardians, and persons in the place of parents of other minors have full rights of access. Minors aged 14 or older have access to their own records; minors under age 14 have access to court and treatment records only in the presence of certain other persons.

The bill eliminates the right of a minor with developmental disability aged 14 or older to object to access to his or her court or treatment records by his or her parent, guardian, or person in the place of a parent.

**INSERT 11-18**

1           **SECTION ~~1~~** 51.13 (4) (g) 1. of the statutes is renumbered 51.13 (4) (g) 1. (intro.)  
2           and amended to read:

3           51.13 (4) (g) 1. ~~The minor if he or she is 14 years of age or older and is being~~  
4           ~~admitted for~~ For the primary purpose of treatment for mental illness or  
5           developmental disability, any of the following, as applicable:

History: 1977 c. 428; 1979 c. 32 s. 91; 1979 c. 300, 331; 1981 c. 74; 1985 a. 29, 176; 1987 a. 366; 1995 a. 77, 225; 1997 a. 27, 35, 292; 2001 a. 16, 104; 2003 a. 326.

6           **SECTION ~~2~~** 51.13 (4) (g) 1. a. of the statutes is created to read:

7           51.13 (4) (g) 1. a. For a minor who is under 14 years of age, a parent who has  
8           legal custody of the minor or the minor's guardian.

9           **SECTION ~~3~~** 51.13 (4) (g) 1. b. of the statutes is created to read:

1           51.13 (4) (g) 1. b. For a minor who is 14 years of age or older, the minor and a  
2           parent who has legal custody of the minor or the minor's guardian, except that, if the  
3           minor refuses approval, a parent who has legal custody of the minor or the minor's  
4           guardian may provide approval on the minor's behalf.

5           **SECTION 4.** ~~51.13~~ (4) (g) 1. c. of the statutes is created to read:

6           51.13 (4) (g) 1. c. For a minor admitted under sub. (1) (c) 1. or 2., the minor.

7           **SECTION 5.** ~~51.12~~ (4) (g) 4. of the statutes is created to read:

8           51.12 (4) (g) 4. The department.

**INSERT 15-25**

9           ~~no #~~ Administration of psychotropic medication as inpatient treatment to a minor  
10           under this paragraph who refuses to consent is reviewable under a hearing under s.  
11           ~~15.13~~ (4) (d). Section 51.14 (3) (a) applies to a minor under this paragraph who  
12           refuses to consent to the administration of psychotropic medication as outpatient  
13           treatment.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1179/1dn

DAK:kjf

*Date*

To Senator Roessler:

1. After conferring with Laura Rose about questions 14. and 17. in my Drafter's Note to you of March 2, 2005, for LRB-1179/P2, I removed an amendment that specified outpatient services from s. 51.47 (1), stats., since that statute provides for both inpatient and outpatient AODA treatment for minors, and made an exception for s. 51.47, stats., in ss. 51.13 (1)(a) and 51.45 (10) (am), stats., to remove conflicts and inconsistencies under current law.

2. I consulted with Mr. Rod Miller of DHFS concerning the curious statutory treatment of s. 51.13 (4) (g), stats., which, as written, appears to authorize a 14-year-old minor with mental illness or developmental disability, a treatment director, or a county department director to approve a court order before it may be implemented. He agreed that the wording is inappropriate, and I have amended the paragraph to permit placement in or transfer to a center for the developmentally disabled that is first approved by DHFS, the treatment director, the director of the s. 51.42 or s. 51.437 county department, and the minor's parent or guardian (if the minor is under age 14) or the minor's parent or guardian and the minor (if the minor is age 14 or older, except that the parent or guardian can override the minor's refusal). The effect is to be consistent with the treatment of minors in the rest of the bill and to require approval *before* the court's decision, not after.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1179/1dn  
DAK:kjf:pg

May 4, 2005

To Senator Roessler:

1. After conferring with Laura Rose about questions 14. and 17. in my Drafter's Note to you of March 2, 2005, for LRB-1179/P2, I removed an amendment that specified outpatient services from s. 51.47 (1), stats., since that statute provides for both inpatient and outpatient AODA treatment for minors, and made an exception for s. 51.47, stats., in ss. 51.13 (1) (a) and 51.45 (10) (am), stats., to remove conflicts and inconsistencies under current law.
2. I consulted with Mr. Rod Miller of DHFS concerning the curious statutory treatment of s. 51.13 (4) (g), stats., which, as written, appears to authorize a 14-year-old minor with mental illness or developmental disability, a treatment director, or a county department director to approve a court order before it may be implemented. He agreed that the wording is inappropriate, and I have amended the paragraph to permit placement in or transfer to a center for the developmentally disabled that is first approved by DHFS, the treatment director, the director of the s. 51.42 or 51.437 county department, and the minor's parent or guardian (if the minor is under age 14) or the minor's parent or guardian and the minor (if the minor is age 14 or older, except that the parent or guardian can override the minor's refusal). The effect is to be consistent with the treatment of minors in the rest of the bill and to require approval *before* the court's decision, not after.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

## Northrop, Lori

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**From:** Stegall, Jennifer  
**Sent:** Friday, May 20, 2005 9:37 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-1179/1 Topic: Informed consent by minors for treatment for mental illness

It has been requested by <Stegall, Jennifer> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-1179/1 Topic: Informed consent by minors for treatment for mental illness